
Judiciary Committee

HB 2195

Title: An act relating to involuntary medication for maintaining the level of restoration in jail.

Brief Description: Concerning involuntary medication for maintaining the level of restoration in jail.

Sponsors: Representatives Morrell, Kochmar, Hurst, Green and Jinkins.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Identifies maintenance of competency in jail as a purpose for which the court may order a criminal defendant facing serious charges to be involuntarily medicated.
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Hearing Date: 1/17/14

Staff: Omeara Harrington (786-7136).

Background:

A person is incompetent to stand trial in a criminal case if, due to a mental disease or defect, he or she lacks the capacity to understand the nature of the proceedings or is unable to assist in his or her own defense. A court may require a competency evaluation of a defendant whenever the issue of competency is raised, and a person who is incompetent may not be tried, convicted, or sentenced for a criminal offense as long as the incompetency continues.

If a person is deemed incompetent to stand trial, the court must stay the criminal proceedings and, if the case involves a felony charge or a nonfelony charge that is a serious offense, order the defendant to undergo a period competency restoration. Restoration treatment typically takes place at a state hospital and involves administration of psychiatric medication and other treatment. If the defendant undergoes restoration but cannot be restored to competency within the statutorily designated time period, the criminal case must be dismissed without prejudice. If the defendant's competency is restored, the criminal proceedings continue.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The United States Supreme Court has recognized that a person has a significant constitutionally protected liberty interest in avoiding the unwanted administration of psychiatric medication. However, in *Sell v. United States* the Court held that, under certain circumstances, a mentally ill defendant facing serious criminal charges may be involuntarily medicated in order to restore competency to stand trial. The *Sell* test requires a case-by-case inquiry that weighs the government's interest in prosecution against the individual's rights.

Washington has statutorily identified certain offenses that qualify as per se serious offenses for the purposes of ordering competency restoration, and, if the *Sell* test is satisfied, ordering involuntary medication during the restoration period. Included in the list of serious offenses are violent and sex offenses, crimes against persons, firearms and dangerous weapons offenses, harassment and domestic violence offenses, and class B felony drug offenses, among others. In addition, the statute outlines the factors the court must consider in deciding whether a non-listed offense qualifies as a serious offense in a particular case.

Summary of Bill:

Statutory language is added to the serious offenses statute, stating that maintaining the level of competency restoration in the jail following a competency restoration period is a purpose for which a court may order the involuntary administration of psychiatric medication to a person charged with a serious offense.

Appropriation: None.

Fiscal Note: Requested on January 13, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.